

SENATE BILL No. 178

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-1.1.

Synopsis: Property tax administration. Permits a claim on an amended personal property tax return of any adjustment or exemption that would have been allowable on the original return. Specifies the procedures for the filing and processing of petitions for correction of error with respect to property tax assessments. Adjusts the qualifications for membership of the property tax assessment board of appeals. Provides that rules of the state board of tax commissioners may not: (1) restrict the ability to practice before the agency to attorneys; or (2) restrict admissibility of evidence to the agency based on the manner in which the taxpayer's representative or other witness is compensated.

Effective: Upon passage; July 1, 2001.

Kenley

January 8, 2001, read first time and referred to Committee on Finance.



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First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE BILL No. 178

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-1.1-3-7.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7.5. (a) A taxpayer may
3 file an amended personal property tax return, in conformity with the
4 rules adopted by the state board of tax commissioners, not more than
5 six (6) months after the later of the following:

6 (1) The filing date for the original personal property tax return, if
7 the taxpayer is not granted an extension in which to file under
8 section 7 of this chapter.

9 (2) The extension date for the original personal property tax
10 return, if the taxpayer is granted an extension under section 7 of
11 this chapter.

12 (b) A tax adjustment related to an amended personal property tax
13 return shall be made in conformity with rules adopted under IC 4-22-2
14 by the state board of tax commissioners.

15 **(c) A taxpayer may claim on an amended personal property tax**
16 **return any adjustment or exemption that would have been**
17 **allowable under any statute or rule adopted by the state board of**



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1 **tax commissioners if the adjustment or exemption had been**
 2 **claimed on the original personal property tax return.**

3 SECTION 2. IC 6-1.1-15-12 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) Subject to the
 5 limitations contained in subsections (c) and (d), a county auditor shall
 6 correct errors which are discovered in the tax duplicate for any one (1)
 7 or more of the following reasons:

- 8 (1) The description of the real property was in error.
- 9 (2) The assessment was against the wrong person.
- 10 (3) Taxes on the same property were charged more than one (1)
- 11 time in the same year.
- 12 (4) There was a mathematical error in computing the taxes or
- 13 penalties on the taxes.
- 14 (5) There was an error in carrying delinquent taxes forward from
- 15 one (1) tax duplicate to another.
- 16 (6) The taxes, as a matter of law, were illegal.
- 17 (7) There was a mathematical error in computing an assessment.
- 18 (8) Through an error of omission by any state or county officer the
- 19 taxpayer was not given credit for an exemption or deduction
- 20 permitted by law.

21 **A petition for correction of error described in this subsection may**
 22 **be filed at any time by a taxpayer, an elected assessing official who**
 23 **represents the area where the property subject to the petition is**
 24 **located, or the county auditor of the county in which the property**
 25 **subject to the petition is located. The petition must be filed with the**
 26 **county assessor of the county in which the property that is the**
 27 **subject of the petition is located. The county assessor shall record**
 28 **the petition in an appeal log and transmit copies of the petition to**
 29 **the appropriate township assessor and the county auditor for**
 30 **signature after their respective actions approving or disapproving**
 31 **the petition. If a petition for correction of error is filed by an**
 32 **assessing official or a county auditor, the official who filed the**
 33 **petition shall give written notice of the filing. The notice must**
 34 **contain a general description of the property and the petition that**
 35 **was filed. An elected assessing official or a county auditor may not**
 36 **file a petition for correction of error after the time within which**
 37 **the property may be assessed or the assessed value of the property**
 38 **may be increased under IC 6-1.1-9-3 or IC 6-1.1-9-4.**

39 (b) The county auditor shall correct an error described under
 40 subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) when ~~he~~ **the county**
 41 **auditor** finds that the error exists, **regardless of whether a petition**
 42 **for correction of error has been filed under subsection (a).**

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(c) If the tax is based on an assessment made or determined by the state board of tax commissioners, the county auditor shall not correct an error described under subsection (a)(6), (a)(7), or (a)(8) until after the correction is either approved by the state board or ordered by the tax court.

(d) If the tax is not based on an assessment made or determined by the state board of tax commissioners, the county auditor shall correct an error described under subsection (a)(6), (a)(7), or (a)(8) only if the correction is first approved by at least two (2) of the following officials:

- (1) The township assessor.
- (2) The county auditor.
- (3) The county assessor.

If two (2) of these officials do not approve such a correction, the county ~~auditor~~ **assessor** shall refer the matter to the county property tax assessment board of appeals for determination. The county property tax assessment board of appeals shall provide a copy of the determination to the taxpayer and to the county auditor.

(e) A taxpayer may appeal a determination of the county property tax assessment board of appeals to the division of appeals of the state board of tax commissioners for a final administrative determination. An appeal under this section shall be conducted in the same manner as appeals under sections 4 through 8 of this chapter. The state board of tax commissioners shall send the final administrative determination to the taxpayer, the county auditor, the county assessor, and the township assessor.

(f) If a correction or change is made in the tax duplicate after it is delivered to the county treasurer, the county auditor shall transmit a certificate of correction to the county treasurer. The county treasurer shall keep the certificate as the voucher for settlement with the county auditor.

SECTION 3. IC 6-1.1-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Each county shall have a county property tax assessment board of appeals composed of individuals who are at least eighteen (18) years of age and knowledgeable in the valuation of property. **Except for the county assessor, an individual who is an officer or employee of a county or township may not serve on the board of appeals in the county in which the individual is an officer or employee.** The fiscal body of the county shall appoint two (2) individuals to the board. At least one (1) of the members appointed by the county fiscal body must be a certified level two assessor-appraiser. The board of commissioners of the county shall appoint two (2) freehold members so that not more than three (3)

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of the five (5) members may be of the same political party and so that at least three (3) of the five (5) members are residents of the county. At least one (1) of the members appointed by the board of county commissioners must be a certified level two assessor-appraiser, **unless the county assessor is a certified level two assessor-appraiser**. A person appointed to a property tax assessment board of appeals may ~~not~~ serve on the property tax assessment board of appeals of another county at the same time. The members of the board shall elect a president. The employees of the county assessor shall provide administrative support to the property tax assessment board of appeals. The county assessor is a voting member of the property tax assessment board of appeals. **and The county assessor** shall serve as secretary of the board. The secretary shall keep full and accurate minutes of the proceedings of the board. A majority of the board constitutes a quorum for the transaction of business. Any question properly before the board may be decided by the agreement of a majority of the whole board.

SECTION 4. IC 6-1.1-31-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. **(a) Subject to subsection (b)**, the state board of tax commissioners shall adopt rules under IC 4-22-2 to govern the practice of representatives in proceedings before the property tax assessment board of appeals and the state board of tax commissioners under IC 6-1.1-15.

(b) A rule adopted under subsection (a) may not:

- (1) restrict the ability of a representative to practice before the property tax assessment board of appeals or the state board of tax commissioners based on the fact that the representative is not an attorney admitted to the Indiana bar; or**
- (2) restrict the admissibility of written or oral testimony of a representative or other witness based upon the manner in which the representative or other witness is compensated.**

(c) This subsection applies to a petition that is filed with the property tax assessment board of appeals or the state board of tax commissioners before the adoption of a rule under subsection (a) that establishes new standards for:

- (1) the presentation of evidence or testimony; or**
- (2) the practice of representatives.**

The property tax assessment board of appeals or the state board of tax commissioners may not dismiss a petition solely for failure to comply with the rule adopted under subsection (a) without providing the petitioner with an opportunity to present evidence, testimony, or representation in compliance with the rule.



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1 **SECTION 5. An emergency is declared for this act.**

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